

State of California  
Business, Transportation and Housing Agency  
Department of Transportation

HIGHWAY RIGHT OF WAY MATTERS  
Appearance  
Action Item

Prepared By:  
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Right of Way  
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CTC Meeting: July 19-20, 2000

Agenda Item: 2.4a. (2)

*Original Signed by* \_\_\_\_\_  
W.J. EVANS, Deputy Director  
Finance  
July 1, 2000

### RESOLUTION OF NECESSITY

The Department of Transportation recommends the California Transportation Commission adopt Resolution of Necessity C-18123. The summary below identifies the location of and designates the nature of the property rights covered by the Resolution of Necessity. In accordance with statutory requirements, the owners have been advised that the Department of Transportation is requesting a resolution at this time. Adoption of Resolution of Necessity C-18123 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

#### C-18123 – Duane Alameda

10-Mer-165-KP57.94 - Parcel 14108 (conventional highway) Authorizes condemnation of land in fee for a State highway, located near the City of Turlock at 10705 Lander Avenue.

## **RESOLUTION OF NECESSITY**

### **REVIEW PANEL REPORT**

The Resolution of Necessity Review Panel met April 5, 2000, in Turlock. The Panel members were Right of Way Senior Douglas Link (Chair), Karla Sutliff, Office of Design and Local Programs, and Caltrans attorney Gene Bonnstetter. The property owner was in attendance.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity and makes a recommendation to the Chief Engineer.

The Panel believes that the District's project design complies with the Code of Civil Procedure in that:

- I. The public interest and necessity require this project.
- II. The project is planned to provide the greatest public good with the least private injury.
- III. This property is required for the proposed project.
- IV. An offer to purchase the property, in compliance with Government Code Section 7267.2, has been made to the owners of record.

#### **I. NEED FOR THE PROJECT**

Route 165 is a minor north-south highway traversing west-central Merced County. Route 165 is classified as a minor arterial system adopted into the State Highway System in 1977. The long-range concept (20 + years) for Route 165 is a 2-lane conventional highway in rural areas upgraded to 5-lane in urban areas.

Increased traffic volumes at Route 165 and Bradbury Road have had an adverse effect on traffic operations in recent years. The lack of a left-turn at the intersection has created a continuity problem on Route 165. Motorists have limited opportunities turning left onto Bradbury Road due to heavy oncoming traffic. The result is traffic congestion on Route 165. Also, motorists from Bradbury Road have difficulties entering Route 165 during peak traffic periods.

Route 165 has a current ADT of 16,700. Traffic volumes are projected to increase to an ADT of 24,800 by the year 2020. During the three-year period from January 1, 1997 to December 31, 1999 a total of 17 accidents had been reported within the project limits.

The County requested that the State construct this safety project and has contributed funding to advance its construction year.

## **II. PROJECT DESIGN**

The proposed project will widen SR 165 to four through lanes with left-turn pockets, widen Bradbury Road to accommodate left-turn pockets, and signalize the intersection at SR 165 and Bradbury Road. Additional lanes along with the left-turn lane at the intersection will accommodate turning movements for vehicles and improve operations.

## **III. NEED FOR THE PARCEL**

The subject parcel is at the southernmost limits of the project. It comprises 20 acres located in a rural area and is improved with a tenant-occupied single family residence. The primary area of the property is used for row crops. There are no improvements impacted by the project. The acquisition area is 38 ft wide at the northeast corner of the property and tapers southerly to 0 ft. The parcel requirements were dramatically reduced to this after the owner-expressed concern about the project design and location.

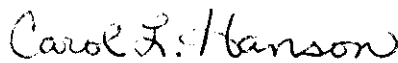
Initially the design impacted the full frontage off the entire property for a vehicle clear recovery zone and would have required reallocating space for the property driveway. In an attempt to placate the owner the area was reduced by two-thirds without compromising the safety aspects of the facility. As a result of the reduction the residential area and driveway will not be impacted.

## **IV. STATUTORY OFFER TO PURCHASE**

The Department has appraised the subject property and has offered the full amount of the appraisal in accordance with Government Code Section 7267.2. Compensation is outside the purview of the California Transportation Commission.

## **PANEL RECOMMENDATION**

The Panel recommends submitting a Resolution of Necessity to the California Transportation Commission.

  
for Douglas Link  
Panel Chairperson

I concur with the Panel's recommendation.

  
Brent Felker  
Chief Engineer

## **SUMMARY OF ISSUES**

With Regard to the Four Criteria Required for a Resolution of Necessity.

### **The public interest and necessity require this project.**

The property owner expressed a concern that this project should be the long-range concept (20 + years) project for Route 165 rather than impacting the area, and potentially him, more than once. The hazardous waste parcel should be dealt with as part of this project to eliminate the ground water contamination sooner rather than later. (Discussed in the next section.)

The department does not currently have a programmed project for the full build out and does not expect a study to address the future needs for several years. The proposed project is needed to reduce the potential for serious accidents and is partially funded by the County in order to expedite the needed improvements.

### **The project is planned to provide the greatest public good with the least private injury.**

The property owner feels that the State is unfairly impacting him in that the current design is totally on the west side of the highway. The design should impact all area properties equally and should be built based on the current centerline of the highway. He feels that the State has made it's alternative selection based on the hazardous waste (leaking underground tanks) from a defunct service station which would be impacted by the alternative design. Thus he is suffering the penalty for someone else's negligence.

There were three alternatives studied for the project. Alternative one was to acquire entirely on the west side of the highway. This alternative impacts 12 parcels, requiring 7 displacements (relocation) and demolition of 4 structures. The Right of Way (R/W) costs were estimated to be \$1.140 million. This alternative was selected as having the least private injury, being the most economical, and could be built without environmental delays.

Alternative two would require acquisition of 15 parcels, 10 displacements and the demolition of 5 structures on both sides of the highway including a small defunct grocery store and service station and an adjacent liquor store. The estimated R/W costs were \$1.42 million. The environmental delays from hazardous waste would severely impact the project schedule and available construction funding.

The third alternative was a no build and would not alleviate the existing traffic flow problems.

### **This property is required for the proposed project.**

No issue, the property owner concurs the subject parcel is needed in order to construct the proposed project, but the design or alternative could be changed to equally distribute the impacts to area properties.

The parcel requirements were reduced dramatically after the owner-expressed concern about the project design and location. Any re-design or alternative selection other than No Build would require this minimal area.

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PERSONS IN ATTENDANCE AT THE SECOND LEVEL REVIEW PANEL  
HEARING ON APRIL 5, 2000

Douglas Link, Chairperson  
Karla Sutliff, Panel Member  
Gene Bonnstetter, Panel Member

Duane Alameda, Property Owner

Jack Walker, Acting Office Chief, Project  
Development  
Neil Bretz, Project Manager  
Aurther Ramirez, Senior Design Engineer  
Eric Chao, Design  
Begered Ghazi, Design

Jerry Wisenor , Acquisition Agent  
Zouheir Barazi, Design and Local Programs  
Bob Chapman, Design Reviewer

**10-MER-165-K.P.57.94**  
**PARCEL No. 14108**  
**GRANTOR:**  
**DUANE ALAMEDA**

There is potential, however remote, that any future study for the long-range concept (20 + years) for Route 165 as a 2-lane conventional highway in rural areas upgraded to 5-lane in urban areas could relocate 165 to the east missing the parcel. Likewise, it could be planned to the west, requiring additional areas from the owner.

**An offer to purchase the property, in compliance with Government Code Section 7267.2, has been made to the owners of record.**

No issue.

**Conclusion.**

The proposed project is the most expedient, least expensive alternative and the Panel believes that the District's project design complies with the Code of Civil Procedure in that:

- I. The public interest and necessity require this project.
- II. The project is planned to provide the greatest public good with the least private injury.
- III. This property is required for the proposed project.
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## CHRONOLOGY OF OFFICIAL CONTACTS WITH THE PROPERTY OWNERS:

### Dwayne Alameda Parcel 14108

9/7/99 Attempted to reach grantor by telephone for a week. Stopped by his house at 1 p.m. No answer to my knock. Left card and note requesting a call. Went back at 2:30 p.m. Card gone, cars in driveway, and no answer to knock.

9/9/99 Left card again requesting a call. Still no answer to telephone call.

9/15/99 Found Mr. Alameda home. He was too busy to meet with me. Was able to give him copies of appraisal summary sheet, summary page, grant deed, contract and map. Made offer of \$5,000.00 standing on the front porch. Got his correct phone number. He was very unhappy that only the west side of highway was being used. He wanted cross-sections and lane configuration for the area in front of his property.

9/16/99 Requested those items from Mark Taylor, Design.

9/30/99 Talked to Mrs. Alameda on phone. Requested that her husband call me.

10/4/99 Called Mr. Alameda about meeting as I now had plans for him. He was too busy to meet but still wanted widening on both sides of the highway.

10/7/99 Called Mr. Alameda. He was just leaving. I offered to leave the information on the front porch and to call him when I got back from vacation.

10/26/99 No one home as I attempted a drop-in call. Telephoned and left message on machine.

11/2/99 Went by house-no answer to my knock. Left message on phone to please call me.

11/17/99 Called Mr. Alameda. He can't remember getting any papers from me. Too busy to meet and doesn't want to be bothered. Now concerned that the new alignment will be too close to his rental house.

11/22/99 Prepared condemnation request

12/6/99 Notice of Intent mailed.

12/9/99 Resolution requested.

12/9/99 Called Mr. Alameda. He has not received the NOI yet. Explained over the phone as to what it is. He can't find anything as to original offer. He wants another set. Requested counter-offer. He's not ready yet. Still doesn't have time to meet with me. He said that I was lucky to catch him at home (now have his cell number).

12/14/99 Talked with Mr. Alameda by cell phone. He is not available to meet. He said to leave papers at his house. Found Mrs. Alameda home and hand delivered the papers to her.

12/17/99 Talked to Mr. Alameda twice. He plans on appealing the intent. Still doesn't feel that he is being treated equally. I again requested a counter-offer.

1/5/00 Talked to Mrs. Alameda. Gave her three possible Level One dates. Requested that her husband call as soon as possible.

1/6/00 Called Mr. Alameda on his cell phone. He wants Level One in Turlock. Gave him three possible dates. He will call me from doctor's office.

1/10/00 Called Mr. Alameda. He wants to meet on Feb. 10<sup>th</sup> at 2 p.m. Sent e-mail to all concerned.

1/11/00 Mailed confirmation letter.

1/31/00 Hand carried review package to Mark Leja's office and to Vicci Messer (R/W Office Chief).

2/4/00 Pre-Level One meeting today.

2/9/00 Called Mr. Alameda. Confirmed Level One meeting tomorrow.

2/10/00 Level One meeting.

2/16/00 Mr. Alameda wants to meet at 4 p.m. on Friday.

2/18/00 Met with Mr. Alameda at the property. Gave him copies of the design manual pages. Discussed cost to cure items. Asked as to 2<sup>nd</sup> level. Not sure yet.

2/23/00 Left messages as to Level Two.

2/23/00 Got agreement from Vicci Messer as to offer.

2/28/00 Had two messages from Mr. Alameda. Called house and cell phones and left message.

3/1/00 Talked to Mrs. Alameda. Left message for Mr. Alameda.

3/2/00 Talked with Mr. Alameda. He has been sick. Discussed offer. No decision as to Level Two.

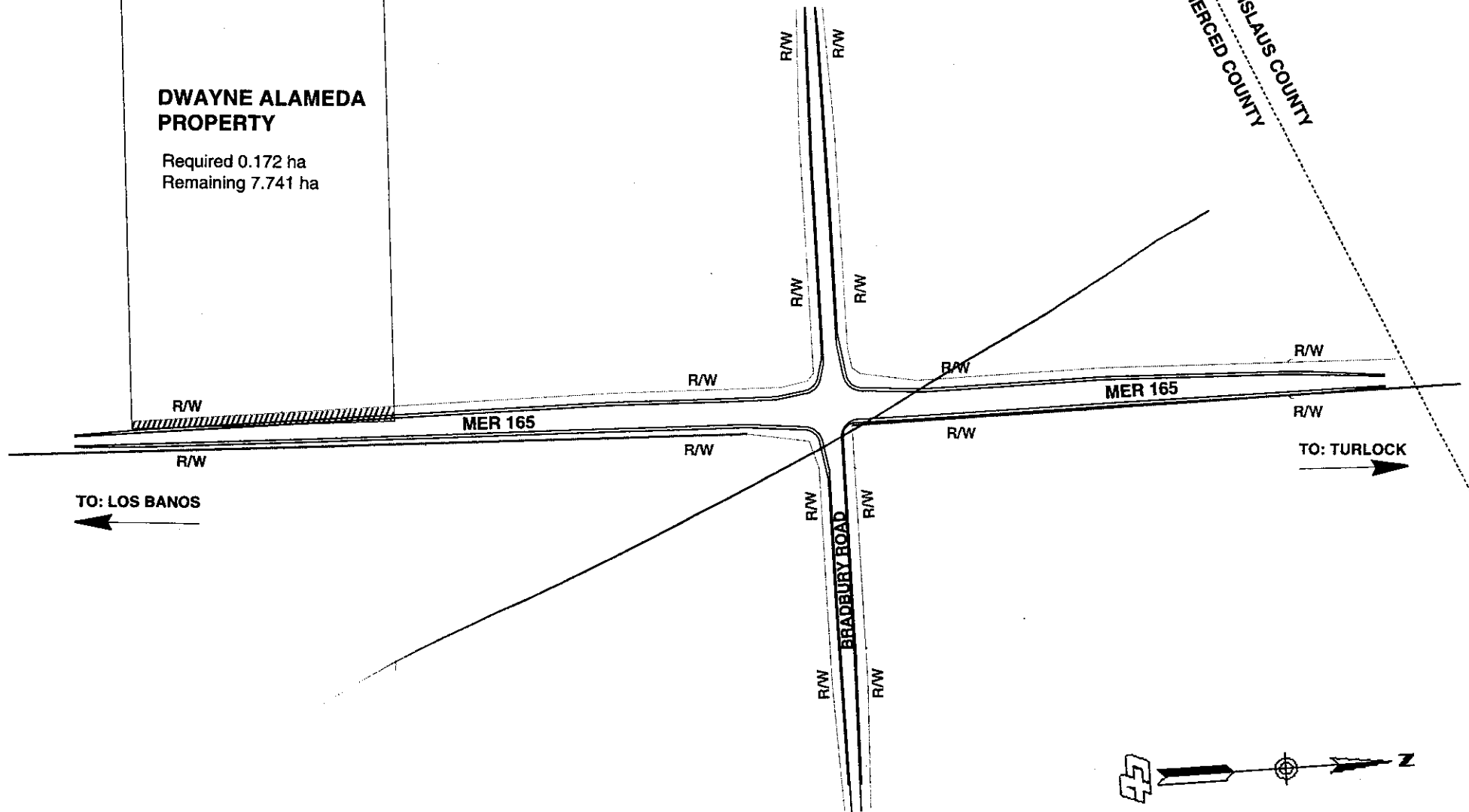
3/7/00 Contacted Mr. Alameda. He wants a Level Two meeting.



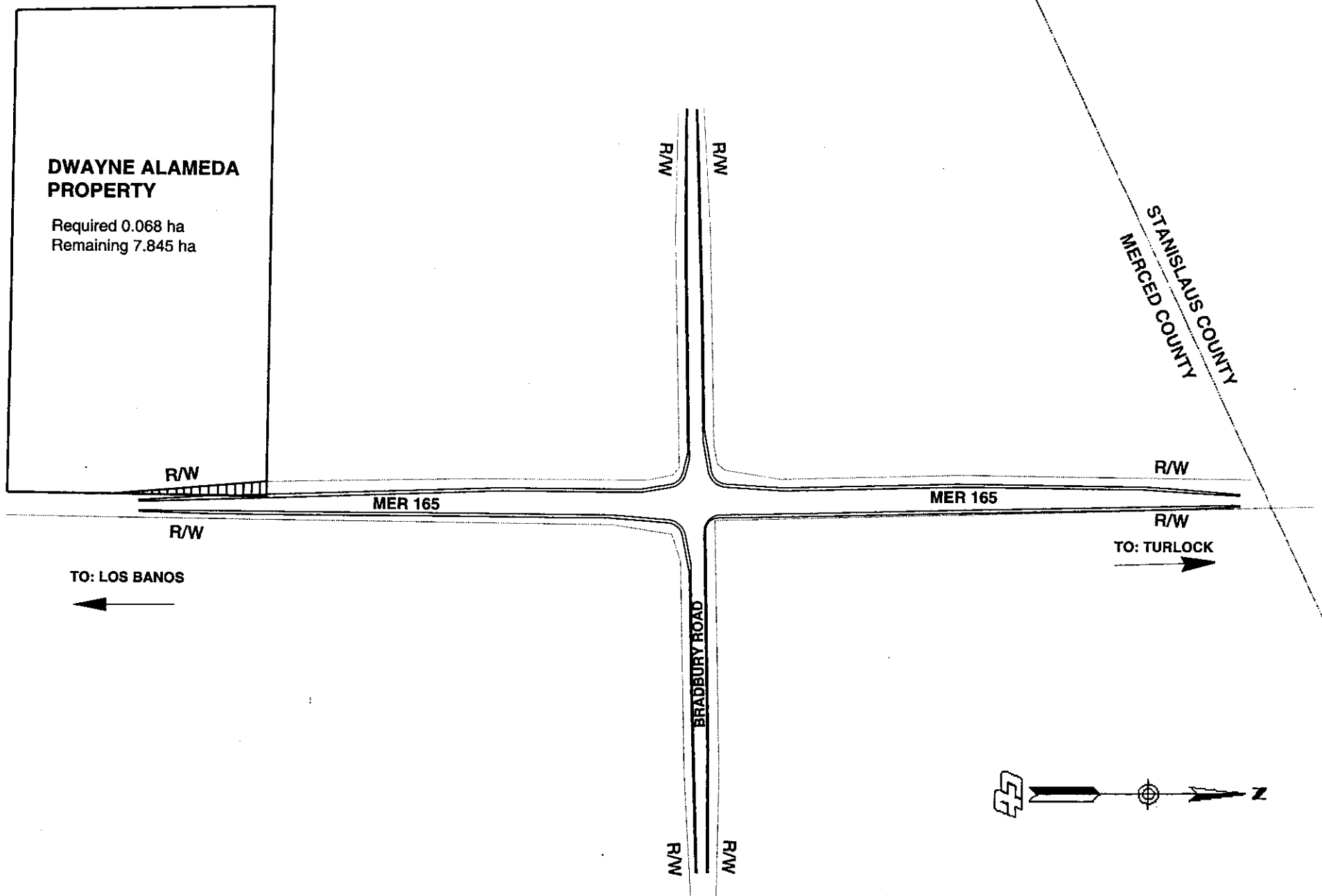
**DWAYNE ALAMEDA  
PROPERTY**

Required 0.172 ha  
Remaining 7.741 ha

STANISLAUS COUNTY  
MERCED COUNTY



**10-MER-165**



**10-MER-165**

**Resolution of Necessity Appearance Fact Sheet**

**PROJECT DATA**

**10-Mer-165-KP 58.07/59.08**

**Location:**

State Route 165 north of Hilmar

**Limit:**

On Route 165 in Merced County near Hilmar at Bradbury Road from KP 58.07 to KP 59.08.

**Contract Limits:**

N/A

**Cost:**

\$2,201,717

**Funding Source:**

HB4N Minor A Program

**Number of Lanes:**

Existing: Conventional highway with two 12 foot lanes and 4 foot shoulders

Proposed: Conventional highway with four 12 foot lanes, 12 foot left-turn pockets, and 8 foot shoulders.

**Proposed Major Features:**

Widen SR 165 to four through lanes with left-turn pockets, widen Bradbury Road to accommodate left-turn pockets, and signalize intersection at SR 165 and Bradbury Road.

**PARCEL DATA**

**Property Owner:**

Duane Alameda

**Parcel Location:**

Highway 165 between Turlock and Hilmar

**Parcel Use:**

Row crop and rental house

**Area of Property:**

20.00+/- Acres

**Area Required:**

First Written Offer on 9/15/99 for 0.42 Acres (\$5,000)

Revised Offer Mailed on 5/24/00 based on reduced requirements in response to property owner concerns for 0.17 Acres (\$2,100)